

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF GEORGIA

3 ATLANTA DIVISION

4 UNITED STATES,)

5 Plaintiff,)

6 v.) Case No. 1:18-cv-05774-AT

7 NANCY ZAK,)

8 CLAUD CLARK III,)

9 ECOVEST CAPITAL, INC.,)

10 ALAN N. SOLON,)

11 ROBERT M. MCCULLOUGH,)

12 RALPH R. TEAL, JR.,)

13 Defendants.)

15 REMOTE VIDEOTAPED DEPOSITION OF

16 JED CHAIM LINSIDER,

17 a witness herein, called by the Plaintiff for
examination, conducted at the location of the
18 witness in Atlanta, Georgia, on January 12, 2021,
commencing at 9:05 a.m. EST, before Ann Medis,
19 Registered Professional Reporter and Notary Public
20 in and for the Commonwealth of Pennsylvania.

Exhibit

1394

1 A P P E A R A N C E S

2 (All participants attended via
3 Webex videoconference.)

4
5 On behalf of Plaintiff

6 U.S. DEPARTMENT OF JUSTICE, TAX DIVISION

7 BY: HARRIS PHILLIPS, ESQUIRE

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1 A P P E A R A N C E S (Continued)

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12 On behalf of Defendants EcoVest Capital, Alan Solon,

13 Robert McCulloush, Ralph Teal and the Deponent

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22 A P P E A R A N C E S (Continued)

1 On behalf of Defendant Claud Clark

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8

9 Also present

10 Joe Townsend, videographer

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1 Just move on to the next question.

2 MR. PHILLIPS: Thanks, Ben.

3 BY MR. PHILLIPS:

4 Q. I think you'll find, Mr. Linsider, our
5 deposition will go a little bit faster and easier
6 if you aren't so hung up on some of the
7 vocabulary.

8 Now, you stated at the beginning -- let
9 me start --

10 MR. PHILLIPS: Amanda, you can take the
11 Excel down, but let's leave the screen share up,
12 please. You might want to...

13 BY MR. PHILLIPS:

14 Q. Mr. Linsider, I don't see an Excel
15 coming again for a while.

16 Mr. Linsider, you said earlier that you
17 play a significant role in matters regarding the
18 real estate that's used in these conservation
19 easement deals; right?

20 A. Yes.

21 Q. Is there an ending point to the
22 acquisition process? That is, how do you know

1 when the real estate has been acquired such that
2 it can now be used for one of these transactions?

3 Is there a document or some sort of step that's
4 taken that makes that decision final?

5 A. Are you referring to the closing, the
6 MIPA?

7 Q. Yeah. Is there anything before the MIPA
8 that would signal that there's been an agreement
9 by EcoVest to acquire land for one of these deals?

10 A. Well, the MIPA would be the first
11 binding contract, if you will.

12 Q. Okay. What's the role of the Letter of
13 Intent in the process?

14 A. The Letter of Intent -- when we use a
15 Letter of Intent, it's simply to -- as would be
16 typical in any real estate transaction. If you're
17 going to spend some money to evaluate a property
18 or a potential use of the property, you want to
19 know that you're going to have some time to do
20 that without anybody else coming in and taking
21 your spot.

22 Q. How frequently does EcoVest use a Letter

1 Q. The workflow for these deals.

2 A. Okay. Yes.

3 Q. Now, it was important to you to include
4 Mr. Clark in discussions about the pipeline of
5 these deals, isn't that fair to say?

6 A. He was included in these discussions,
7 yes.

8 Q. Okay.

9 A. At least in this discussion, the two
10 that you highlighted.

11 Q. He was regularly included in the
12 pipeline discussions, wasn't he?

13 A. For deals he was involved with, yes.

14 Q. We're talking about the core deals.

15 A. As the appraiser.

16 Q. So with respect to the core deals, the
17 conservation easement transactions that this case
18 is all about, Mr. Clark, he was in the pipeline
19 discussions?

20 A. Yes.

21 (Exhibit 172 was marked.)

22

1 fair market value for the property at issue in the
2 Beech Springs deal?

3 A. I don't know enough to answer the
4 question.

5 Q. I'm not asking you to verify it or agree
6 with it. I'm asking: As you sit here today, do
7 you have any reason to dispute it?

8 A. I mean, this reads to me as a narrow use
9 of terminology for purposes of calculating a
10 transfer tax. So in that context, sure, I have no
11 reason to dispute it.

12 Q. Great. Have you heard of an entity
13 Clarion Partners?

14 A. It does not sound familiar.

15 Q. C-L-A-R-I-O-N.

16 A. It does not sound familiar.

17 Q. Let's go back to the PPM, which was
18 Exhibit 162 with a doc ID ECOVEST-DOJ_0128354.

19 A. Sorry. Exhibit which number?

20 Q. 162.

21 A. Okay.

22 Q. Now, this was the PPM for Carolina Bays,

1 which was a 2014 transaction.

2 A. Okay.

3 Q. Page 4 of this PDF sets forth some of
4 the offering details. I know it's hard to read,
5 but the property location identifies 115.74 acres.
6 Do you see that?

7 A. I do. I'm sorry. I'm just waiting for
8 it to pull up in the share.

9 Q. It will be a lot quicker if you look at
10 the screen share.

11 A. No, I understand. I just want to make
12 sure I can have context if I need it. I'll let
13 the document pull up, and I'll review what's on
14 the screen share while it's coming up.

15 Q. I'm just directing you to the location,
16 which is 115.74 acres in Horry County. Do you see
17 that?

18 A. Okay. Yep, I do.

19 Q. Now, PDF page 45 of this document, the
20 Estimated Use of Proceeds, it identifies the MIPA
21 price as 4.6 million roughly. Do you see that?

22 A. Okay. I do.

1 Q. So the price EcoVest paid to acquire the
2 property or an interest in the entity that held
3 the property was just shy of 40 percent of the
4 gross offering proceeds. That's what's in the
5 PPM; right?

6 A. That looks about right just highballing
7 the numbers. If you give me a minute, please, I
8 want to...

9 Q. Well, the percent is in the next column.

10 A. Fair enough. Sorry. I'm looking at it
11 on the screen, and it's small. So I didn't see
12 the percentages.

13 Q. No problem.

14 A. Okay. Yeah. I see that.

15 Q. Now, for the property in the Carolina
16 Bays transaction, did EcoVest actually do any
17 development on the property?

18 A. Did EcoVest do any development on the
19 property? Not -- the only development work that
20 would have -- that was done by EcoVest is what's
21 in the file for the offering.

22 Q. And then the conservation option was

1 in the life cycle of the project, of the property,
2 which had not had any improvements on it at that
3 point.

4 Q. When you negotiated the MIPA, you
5 thought 4.6 million was a fair price to pay. Do
6 you agree with me on that?

7 A. I do.

8 Q. You agree with me that 50 million would
9 not have been a fair price to pay?

10 A. Yes.

11 Q. Okay.

12 MR. PHILLIPS: Let's take a little
13 break. We can do it in just five minutes if that
14 works for you guys.

15 THE VIDEOGRAPHER: Going off the record
16 at 5:31 p.m.

17 (Recess from 5:31 p.m. to 5:41 p.m.)

18 THE VIDEOGRAPHER: Back on the record at
19 5:41 p.m.

20 (Exhibit 181 was marked.)

21 MR. PHILLIPS: Exhibit 181 has doc ID
22 ECOVEST-DOJ_351845. That's 351845.